

ALLOWANCE FOR ELECTION OF THE DELEGATE FROM
GUAM BY OTHER THAN SEPARATE BALLOT, AND FOR
OTHER PURPOSES

SEPTEMBER 18, 1997.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 1460]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1460) to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. BALLOT REQUIREMENT FOR DELEGATE.

Section 2(a) of the Act entitled “An Act to provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a Delegate to the House of Representatives” approved April 10, 1972 (48 U.S.C. 1712(a)), is amended—

- (1) by inserting “from the Virgin Islands” before “shall be elected at large”; and
- (2) by inserting “The Delegate from Guam shall be elected at large and by a majority of the votes cast for the office of Delegate.” before “If no candidate”.

PURPOSE OF THE BILL

The purpose of H.R. 1460 is to allow for the election of the Delegate from Guam by other than separate ballot.

BACKGROUND AND NEED FOR LEGISLATION

The United States territory of Guam consists of the southernmost island of Guam and adjacent islets of the 800-mile Mariana Archipelago in the Western Pacific. Guam came under U.S. sovereignty as part of the Treaty of Paris which concluded the Spanish-American War of 1898. Article IX of the Treaty provides that: "The civil rights and political status of the native inhabitants of the territories ceded to the United States shall be determined by the Congress."

In 1950, Congress extended United States citizenship to the residents of Guam who had demonstrated unwavering loyalty to the U.S. throughout the years of enemy occupation of the territory during World War II. Local government was organized under the 1950 Organic Act of Guam in lieu of a constitution. Over the subsequent years, self-government on Guam continued to evolve and build upon the 1950 Organic Act. Congress authorized the direct election of the Governor of Guam in 1968 and representation in Congress of the Americans in Guam through the election of a Delegate from Guam to the U.S. House of Representatives in 1972.

Finally, in 1976 Congress authorized one of the final steps in the self-government process by giving Guam authority to formulate and implement a constitution of its own adoption (Public Law 94-584). Congress ignored prior precedents by not requiring Congressional ratification of a Guam constitution prior to implementation by Guam, based on the success of previous federal-territorial constitutional processes. The adoption of a local constitution is a significant part of the evolution of self-government, but it does not preclude the right of further self-determination in the advance toward a final political status.

However, as no constitution has been approved by the people of Guam, the prevailing instrument for self-governance in Guam continues to be the Organic Act. Therefore, to alter the current election procedures where the Delegate from Guam is elected by separate ballot, the federal law must be changed, as proposed in H.R. 1460, since the original Organic Act requires the Delegate from Guam to be elected by separate ballot.

Guam has an active electorate with a higher voter turn-out than the national average. Currently, qualified voters on Guam manually fill in ballots for elections. These ballots are tabulated by computerized reading machines. Under federal law (Public Law 92-271), election ballots for the delegate from Guam to the House of Representatives must be separate from those for other elected officials. Logistically, this means that the ballot for the Guam delegate be printed on a separate sheet of paper, a requirement which adds an unnecessary cost to the election process to the Government of Guam.

The Guam Election Commission has requested that the Congress amend the law to remedy this costly situation which is a burden to the Government of Guam.

COMMITTEE ACTION

H.R. 1460 was introduced on April 24, 1997, by Delegate Robert A. Underwood. The bill was referred to the Committee on Re-

sources. The proposed change to allow for the election of the Delegate from Guam by separate ballot is identical to Section 5 of H.R. 1332, which passed the House, but not the Senate, at the end of the 104th Congress on September 28, 1996. This proposed change regarding the election of the Delegate by separate ballot was addressed in a July 1996, hearing of the Subcommittee on Native American and Insular Affairs of the Committee on Resources. The Administration has expressed support for this modification of the law.

On July 16, 1997, the Committee met to mark up H.R. 1460. Mr. Underwood offered an amendment to strike section two of the bill entitled, "Temporary Absence of Officials," which would have amended the Organic Act of Guam to permit the governor and lieutenant governor of Guam to continue their authority when off-island, instead of transferring their authority to the next individual in the line-of-authority under current law. The amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact H.R. 1460.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1460. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1460 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1460.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1460 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 1997.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1460, a bill to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are John R. Righter (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1460—A bill to allow for election of the Delegate from Guam by other than separate ballot, and for other purposes

H.R. 1460 would allow the Guam Election Commission to include the office of the Delegate to the U.S. House of Representatives on the same ballot as other elected offices. CBO estimates that enacting this bill would have no impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 1460 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. Enacting this bill would result in reduced election costs for the government of Guam. Based on information provided by officials from Guam, CBO estimates that these savings would amount to about \$10,000 for each election.

The CBO staff contacts for this estimate are John R. Righter (for federal costs), and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1460 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 2 OF THE ACT OF APRIL 10, 1972

AN ACT To provide that the unincorporated territories of Guam and the Virgin Islands shall each be represented in Congress by a delegate to the House of Representatives

SEC. 2. (a) The Delegate shall be elected by the people qualified to vote for the members of the legislature of the territory he is to represent at the general election of 1972, and thereafter at such general election every second year thereafter. The Delegate shall be elected at large *from the Virgin Islands*, by separate ballot and by a majority of the votes cast for the office of Delegate. If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.

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ADDITIONAL VIEWS OF DELEGATE ROBERT UNDERWOOD

The purpose of the bill is clear. It is to facilitate the election of the Delegate from Guam and to avoid unnecessary costs. The bill amends the Act of April 10, 1972, which provides Guam and the Virgin Islands with Delegates to the U.S. House of Representatives.

Although any matter pertaining to the election of the Delegate can be framed as part of Guam's political development, this particular piece of legislation neither enhances nor detracts from that progress.

Consequently, the comments of this report regarding the Organic Act and the authorization of a Constitution seem out of place. The third paragraph under "Background and Need for Legislation" discusses Public Law 94-584, the Constitution process. The argument is made that having a local Constitution does not preclude the right of self-determination. There is no argument with this.

However, there has been a great deal of discussion in Guam about whether to proceed with a Constitution without a change in Guam's current political status. This was resolved via election in 1979, when the Constitution was defeated. The people of Guam want a political status change first. Having a Constitution before having a political status is putting the cart before the carabao.

ROBERT A. UNDERWOOD.

